

ORIGINAL



0000109754

**Montezuma Rimrock Water Co LLC**  
 MONTENZUMA RIMROCK WATER CO LLC

P.O. Box 10  
 Rimrock, AZ 86335  
 928-592-9211

March 30, 2010

Director of Utilities Division  
 Steven M. Olea  
 Arizona Corporation Commission  
 1200 W. Washington St.  
 Phoenix, AZ 86007

Arizona Corporation Commission  
**DOCKETED**

APR - 5 2010

DOCKETED BY	<i>MS</i>
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Re: ADEQ Non-Compliance

Dear Mr. Olea:

On October 21, 2009, MRWC received a consent order from ADEQ. MRWC met with ADEQ requesting corrections to inaccuracies within the consent order and to discuss the alternative drinking supply request. In its meeting with ADEQ, MRWC stated that it did not disagree with many provisions in the Consent Order however, it did not concur with the feasibility of providing an alternative drinking water source. All actions by MRWC that would financially affect its customers must be submitted through ACC. MRWC also submitted a letter in response to the Consent Order detailing its status and plans for progress which is attached. MRWC awaited a response from ADEQ and received a Compliance Order, also attached.

The following steps have been taken by MRWC to bring itself into compliance with ADEQ requirements:

1. Within ten calendar days of the effective date of the compliance order, MRWC issued a public notice describing the arsenic exceedance to its customers (see attached).
2. An Approval to Construct for the Arsenic Treatment System was submitted to ADEQ on February 10, 2010 (see attached).
3. An Approval to Construct for well site #4 was received by MRWC on October 28, 2009 (see attached).
4. On July 16, 2008, MRWC submitted a Rate Application and a Financing Application to obtain a \$165,000 loan from WIFA to cover the cost of an arsenic

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AZ CORP COMM  
 Director Utilities

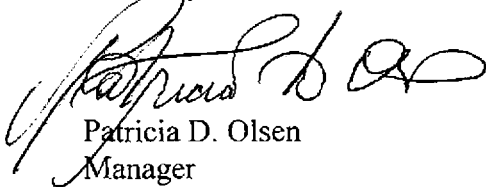
treatment project to bring its water supply into compliance with the USEPA. On October 21, 2009, approval was granted.

5. On December 16, 2009, MRWC the loan was approved by WIFA.
6. On January 28, 2010, final loan documents were signed by MRWC.
7. Due to a citizen's complaint, WIFA funding was deferred pending an EID (see attached documents) .
8. MRWC received a Land Use Permit on March 16, 2010 for well site #4 (see attached).

The following steps are currently being taken by MRWC to bring itself into compliance with ADEQ requirements:

1. MRWC has and continues to conduct the quarterly arsenic testing required by ADEQ.
2. MRWC has signed a contract with Southwest Ground-water Consultants, Inc. to conduct the EID required by WIFA. Once the EID is submitted to WIFA, a 30 day public comment period is required.
3. MRWC will move forward as expeditiously as possible to install its arsenic treatment system once funds are released from WIFA.
4. MRWC, through Fennemore Craig, P.C., has requested a hearing and request for informal settlement conference with ADEQ.
5. On March 2, 2010, MRWC request for an extension regarding the Approval of Construction of well site #4 with the Arizona Corporation Commission is pending.

Sincerely,



Patricia D. Olsen  
Manager

cc: Del Smith  
Kim Battista  
Legal Division

COMMISSIONERS  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



ERNEST G. JOHNSON  
Executive Director

ARIZONA CORPORATION COMMISSION

February 23, 2009

Ms. Patricia Olsen  
Montezuma Rimrock Water Company, LLC  
PO Box 10  
Rimrock, Arizona 86335

Re: ADEQ Non-Compliance

Dear Ms. Olsen:

It has come to the attention of the Staff of the Arizona Corporation Commission ("the Commission") that Montezuma Rimrock Water Company, LLC ("Company") is not in compliance with the Arizona Department of Environmental Quality's ("ADEQ") arsenic standards. The purpose of this letter is to alert you that the Commission Staff views this status as a matter of concern.

Staff believes that compliance with ADEQ standards is a necessary component of adequate water service. The Commission has the authority to determine whether the service provided by a public service corporation is adequate. Specifically, A.R.S. § 40-321 reads:

*When the commission finds that the equipment, appliances, facilities of service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation.*

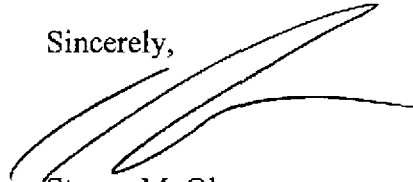
Additionally, A.A.C. R14-2-407(A) and (C) require each public service corporation to provide potable water to customers and to supply a satisfactory and continuous level of service. Your ADEQ deficiencies will likely impact your Company's ability to provide adequate, satisfactory, and continuous service, and these deficiencies should be remedied immediately.

ADEQ has mailed a Consent Order to your Company for ongoing arsenic exceedance which outlined timeframes and listed specific steps your Company needed to take to bring itself into compliance with ADEQ requirements. Staff understands that your Company has refused to sign the Consent Order within the timeframe specified. Within sixty (60) days, please submit to the Utilities Division a detailed plan that addresses and remediates the current problem that has prevented your compliance, explain why you have declined to sign the Consent Order and describe what actions the Company has taken to date to comply with the requirements of the

Consent Order. If a plan is not submitted within sixty (60) days, this issue will be referred to the Commission's Legal Division for possible enforcement action.

Commission Staff awaits your prompt response concerning this serious matter. If you have any questions, please feel free to contact Del Smith, Engineering Supervisor of the Utilities Division, at 602-542-7277 or [DSmith@azcc.gov](mailto:DSmith@azcc.gov).

Sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form the name 'Steven M. Olea'.

Steven M. Olea  
Director, Utilities Division  
Arizona Corporation Commission

SMO:DWS:red

CC: Legal Division  
Del Smith  
Kim Battista

# Arizona Department of Environmental Quality

## Certificate of Public Notice Distribution

Public water systems (PWSs) must submit this signed Certificate of Distribution and provide a copy of each public notice within ten days of issuance. PWSs should consult with the ADEQ Rule Specialists for appropriate methods of public notice.

PWS Name Montezuma Rimrock Water Company LLC  
PWS ID # 13-071 Violation Type: MCL ☒ Monitoring ☐ Other ☐  
Date of Violation February 18, 2010 Contaminant Arsenic  
Date Notice Distributed March 12, 2010

*Public Notice was distributed by the following method(s):*  
[Please check all that apply]


**Community** water systems must use at least one of the following methods:

- ☐ Direct Hand Delivery to Customer – (Tiers 1, 2, 3)
- ☒ Individual Customer Mailing – (Tiers 2, 3)
- ☐ Posting at Conspicuous Locations throughout System (Tiers 1, 2, 3) –  
Please indicate location & number of postings \_\_\_\_\_
- ☐ Publication in Local Newspaper – (Tiers 2, 3)
- ☐ TV Station – (Tier 1)
- ☐ Radio Station – (Tier 1)
- ☐ Consumer Confidence Report – (Tier 3)
- ☐ Other (Must be approved by ADEQ) \_\_\_\_\_

**Non-Community** water systems must use at least one of the following methods:

- ☐ Direct Hand Delivery to Customer – (Tiers 1, 2, 3)
- ☐ Individual Customer Mailing – (Tiers 2, 3)
- ☐ Posting at Conspicuous Locations throughout System (Tiers 1, 2, 3) –  
Please indicate location & number of postings \_\_\_\_\_
- ☐ Publication in Local Newspaper – (Tiers 2, 3)
- ☐ E-mail to notify employees and students – (Tiers 1, 2)
- ☐ Other (Must be approved by ADEQ) \_\_\_\_\_

**I certify that the above information is true and accurate to the best of my knowledge:**

Name and Title (PRINT) Patricia D. Olsen, Manager  
Signature  Date March 12, 2010  
Certified Operator # (if applicable) 20172

- Tier 1 – Acute MCL violation, 24-hour public notice
- Tier 2 – Non-Acute MCL violation, 30-day public notice
- Tier 3 – Monitoring violation, 1 year public notice

For questions, please contact Donna Calderon at 602-771-4641 • Fax number: 602-771-4634  
1110 West Washington Street Phoenix, Arizona 85007

**From:** Patricia Olsen (patsy@montezumawater.com)  
**To:** hrd@azdeq.gov;  
**Date:** Mon, November 30, 2009 3:31:25 PM  
**Cc:** csc@azdeq.gov;  
**Subject:** Montezuma Rimrock Water Company LLC

November 30, 2009

Henry R. Darwin  
Arizona Department of Environmental Quality  
1110 W. Washington St.  
Phoenix, AZ 85007

Dear Mr. Darwin,

I own and operate Montezuma Rimrock Water Company, LLC (MRWC). I purchased the water company in July of 2005. When this water company was purchased, it had no arsenic treatment system in place. Originally, the prior owners submitted a plan to ADEQ for the installation of POU units in each home due to the small number of customers. When it was purchased, the water company had approximately 123 customers. Within two years, the customer base grew unexpectedly to over 200 customers. This required MRWC to reevaluate the original POU plan and seek a centralized form of treatment.

MRWC is a company which is regulated by the Arizona Corporation Commission (ACC) and is unable to incur long term debt without their approval. MRWC did not receive approval to seek WIFA funding until October 21, 2009 from ACC. MRWC must now wait until December 16, 2009 to receive approval from WIFA. MRWC has no resources to move forward with the arsenic treatment system until WIFA releases funds which is not scheduled until after December 16, 2009 and will expeditiously as possible install its arsenic treatment system. Operation of the arsenic treatment system is expected to begin April 30, 2009. MRWC's progress is and has been based on government agencies and their progress. MRWC has been making every effort to comply but is powerless to affect the speed of regulatory agencies.

MRWC received a draft consent order from ADEQ regarding the arsenic exceedence and subsequently requested a meeting with Ms. Vivian Burns. In a recent meeting with Ms. Burns, MRWC stated that it agreed with the consent order with the exception of the alternative drinking water provision. MRWC also informed Ms. Burns that it plans to have its arsenic treatment system installed and operating by April 30, 2009. MRWC asked Ms. Burns how long it had to sign the consent order and Ms. Burns stated that MRWC had until December 31, 2009. In the consent order it states that within 15 days of the signing of the consent order, MRWC must provide an alternative drinking water source to its customers. On November 23, 2009, MRWC received an email from Ms. Burns stating that MRWC must provide an alternative drinking water supply for its customers by December 1<sup>st</sup>, 2009. At this time, MRWC is unaware of any other water companies within the Verde Valley that must provide an alternative drinking water supply to its customers by December 1<sup>st</sup>. The City of Cottonwood, Big Park Water Company, and Pine Valley Water Company have not received orders to provide an alternative drinking water supply to its customers by December 1<sup>st</sup>. Although the City of Cottonwood is overseen by EPA, Ms. Burns in her email states, "I can't comment on the EPA ruling(s)." Although Big Park Water Company has some arsenic treatment systems in place, it still is serving many of its customers untreated water.

MRWC contacted Ms. Corrine Li from Region 9 of the EPA to seek a waiver in providing an alternative drinking water source. Ms. Li stated that the EPA would expect that ADEQ would provide a "level playing field with all companies". Ms. Li also stated that "with arsenic levels of 30-35, they do not expect there to be long term health effects."

MRWC is unable to provide an alternative drinking water source within the requested time frame for the following reasons:

1. Providing an alternative drinking water supply to its 480 customers each day would create a financial hardship on the company.
2. MRWC currently has no facilities to handle drive up water customer distribution.
3. To provide drive up water customer distribution would require that MRWC submit an Approval to Construct to ADEQ in order to restructure its water treatment facility. An ATC from ADEQ requires approximately 6 weeks.
4. Having to provide a temporary water situation will hinder a permanent solution.

MRWC has informed and communicated with Ms. Burns on the following:

- MRWC has been working with its engineers, Environmental Hydro-Systems
- MRWC has been working with ACC and received approval on October 21, 2009
- MRWC has been working with WIFA and anticipates financial assistance in December, 2009
- MRWC has been providing the quarterly monitoring although in the consent order Ms. Burns states it has not.

MRWC does not feel that ADEQ is providing a "level playing field" in this matter. MRWC can find no evidence of aggressive action that has been taken with local water companies such as The City of Cottonwood, Big Park Water Company and Pine Valley Water Company. MRWC understands that there are companies that have not made their applications to ACC and WIFA. Furthermore, although MRWC has been doing its best, it does not feel that it should have been subjected to off the cuff, unprofessional and derogatory comments made to Ms. Olsen by Ms. Burns. Ms. Burns stated to Ms. Olsen, "You must be sleeping with the guys over at the Arizona Corporation Commission for them to be so helpful to you."

MRWC requests that it be given until May 30, 2009 to install and begin operation of its intended arsenic treatment system. It is also requesting that the demand for the providing of alternative drinking water to its customers be removed. MRWC also requests an apology from ADEQ for the insulting comment made by ADEQ staff.

Sincerely,

Patricia D. Olsen  
Montezuma Rimrock Water Company LLC

Cc: Cynthia Campbell

*Patricia D. Olsen, President  
Montezuma Rimrock Water Co. LLC  
P.O. Box 10  
Rimrock, AZ 86335*



1 **BEFORE THE DIRECTOR OF THE**  
2 **ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

3 **In the Matter of:**

) **COMPLIANCE ORDER**

4 Montezuma Rimrock Water Company, LLC )  
located at P. O. Box 10, Rimrock , Yavapai )  
5 County, Arizona 86335 )

) **Docket No.** DW-14-10

6 Public Water System Number 13-071 )  
7 )

8 **To:** Montezuma Rimrock Water Company, LLC (Montezuma Rimrock), an Arizona Limited  
9 Liability Company, in its capacity as owner and/or operator of Montezuma Rimrock located at  
10 P. O. Box 10, Rimrock , Yavapai County, Arizona 86335, Public Water System (PWS) #13-071.

11 **RECITALS**

12 The Director of the Arizona Department of Environmental Quality (ADEQ) has  
13 determined that Montezuma Rimrock is in violation of the Arizona Revised Statutes (A.R.S.) or  
14 the rules adopted pursuant to the A.R.S. As a result, the Director is issuing this Order requiring  
15 compliance within a reasonable time and imposing a civil administrative penalty, as described  
16 below.

17 **I. AUTHORITY**

18 The Director is authorized to issue this Order pursuant to A.R.S. § 49-354.

19 **II. NATURE OF VIOLATION(S)**

20 The Director has reason to believe that Montezuma Rimrock has violated the following  
21 provisions set forth in the A.R.S., or the Arizona Administrative Code (A.A.C.):

22 **A. 40 CFR § 141.62(b) / A.A.C. R18-4-109**

23 **Distribution of water in excess of the MCL for an inorganic chemical**

24 According to ADEQ records, analytical results submitted for the above referenced water system  
25 indicate an exceedance of the Maximum Contaminant Level (MCL) for arsenic. The sample



1 taken at Entry Point to the Distribution System (EPDS) # 001, on November 12, 2009 indicated a  
2 level of 0.033 mg/l, and a sample taken at EPDS #003 taken on November 12, 2009 indicated an  
3 arsenic level of 0.029 mg/l. The MCL for arsenic is 0.010 mg/l.

### 4 **III. TIME FOR COMPLIANCE**

5 **IT IS ORDERED** that Montezuma Rimrock achieve compliance by taking the specific actions  
6 set forth below:

7 A. Within ten (10) calendar days of the effective date of this Order, Montezuma  
8 Rimrock shall issue a public notice describing the arsenic exceedance to customers of PWS #13-  
9 071 as required by 40 C.F.R. § 141.203(b) (incorporated by reference at A.A.C. R18-4-119).

10 Montezuma Rimrock shall issue repeat public notices on a quarterly basis as required by 40  
11 C.F.R. § 203(b)(2) (incorporated by reference at A.A.C. R18-4-119), and submit a copy of each  
12 repeat notice to ADEQ within ten (10) calendar days after the notice is issued as required by 40  
13 C.F.R. § 141.31(d) (incorporated by reference at A.A.C. R18-4-119).

14 B. Within fifteen (15) calendar days of the effective date of this Order, Montezuma  
15 Rimrock shall submit to ADEQ an administratively complete application for an Approval to  
16 Construct (ATC) required by A.A.C. R18-5-505, for a treatment system using best available  
17 technology (BAT) to achieve compliance with the arsenic MCL in accordance with 40 C.F.R. §  
18 142.62(b) (incorporated by reference at A.A.C. R18-4-103).

19 C. Within thirty (30) calendar days after ADEQ issues the ATC, Montezuma  
20 Rimrock shall complete construction of the approved treatment system and submit an  
21 administratively complete application for an Approval of Construction (AOC) for the treatment  
22 system described in Section III(B) of this Order.

23 D. Within ten (10) calendar days of the effective date of this Order, Montezuma  
24 Rimrock shall provide an alternate source of drinking water to customers of PWS #13-071. The  
25 alternative source of drinking water may include the use of bottled water, or other methods

1 approved by ADEQ to avoid an unreasonable risk to public health.

2 E. Within five (5) calendar days after the treatment system in Section III(C) is  
3 installed, Montezuma Rimrock shall collect an initial sample, and then continue to conduct  
4 quarterly monitoring for arsenic, and submit results to ADEQ within five (5) days of receiving  
5 results, until the arsenic sample results demonstrate that the running annual average is below  
6 0.010 mg/l, in accordance with 40 C.F.R. § 141.23(i)(1) (incorporated by reference at A.A.C.  
7 R18-4-105).

#### 8 **IV. RIGHT TO HEARING AND INFORMAL SETTLEMENT CONFERENCE**

9 A. Montezuma Rimrock has a right to a hearing before an administrative law judge  
10 to contest this Order, provided that a notice of appeal or request for hearing is made within thirty  
11 (30) calendar days of receipt of this Order. A notice of appeal or request for hearing must be in  
12 writing and must specifically identify those portions of this Order which are contested.

13 B. Montezuma Rimrock has a right to request an informal settlement conference  
14 pursuant to A.R.S. § 41-1092.06, provided there has been a timely request for hearing. A request  
15 for an informal settlement conference must be filed with ADEQ no later than twenty (20)  
16 calendar days before the hearing.

17 C. All notices of appeal, requests for hearing, and requests for an informal settlement  
18 conference must be submitted to ADEQ in writing at the following address:

19 Arizona Department of Environmental Quality  
20 Office of Administrative Counsel  
21 Attention: Judith Fought, Hearing Administrator  
22 1110 West Washington Street  
23 Phoenix, Arizona 85007-2935

#### 24 **V. ENFORCEMENT OF ORDER**

25 This Order becomes final and enforceable in superior court within thirty (30) calendar days of  
receipt, unless a hearing is properly requested as set forth above. As a result, the effective date  
of this Order is thirty (30) calendar days from the date of receipt, or if this Order is appealed as

1 set forth above, the date that Montezuma Rimrock receives the Director's final decision on the  
2 appeal.

3 **VI. CORRESPONDENCE**

4 All invoices, photographs, logs, laboratory analyses, sealed engineering plans, technical  
5 drawings, permits or any other document(s) necessary to establish compliance or required by this  
6 Order must be mailed or hand delivered to the following address:

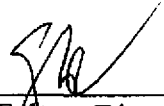
7 Arizona Department of Environmental Quality  
8 Water Quality Division  
9 Attention: Vivian Burns, Case Manager  
10 1110 West Washington Street, Mail Code 5415B-1  
11 Phoenix, Arizona 85007-2935  
12 Telephone: (602) 771-4608 Email: [burns.vivian@azdeq.gov](mailto:burns.vivian@azdeq.gov)

13 Any such correspondence shall be deemed submitted when received by the ADEQ at the above  
14 address.

15 **VII. RESERVATION OF RIGHTS**

16 By issuing this Order the Arizona Department of Environmental Quality does not waive its right  
17 to seek appropriate penalties or injunctive relief in superior court for violations of the Arizona  
18 Revised Statutes, or any rule, permit or order promulgated or issued thereunder, or any other  
19 applicable environmental statute or legal authority.

20 ISSUED this 25<sup>th</sup> day of February, 2010.

21   
22 Mike Fulton, Director  
23 Water Quality Division  
24 Arizona Department of Environmental Quality  
25

**ORIGINAL** of the foregoing Consent Order was sent certified mail, return receipt requested, this 26 day of February, 2010, to:

Patricia D. Olsen, Manager  
Montezuma Rimrock Water Co, LLC  
P. O. Box 10  
Rimrock, Arizona 86335

**COPY** of the foregoing Consent Order was filed this 26 day of February, 2010, with:

Arizona Department of Environmental Quality  
Office of Administrative Counsel  
Attention: Judith Fought, Hearing Administrator  
1110 West Washington Street  
Phoenix, Arizona 85007-2935

**COPIES** of the foregoing Consent Order were sent by regular/interdepartmental mail, this 26 day of February, 2010, to the following:

Cynthia Campbell, ADEQ Section Manager Water Quality Compliance Section  
Vivian Burns, ADEQ Case Manager Water Quality Enforcement Unit  
Vivian Adams, ADEQ Drinking Water Section  
Robert Olberding, ADEQ Manager Field Services, ADEQ Northern Regional Office

Yavapai County Community Health Services  
Robert Resendes, Director  
1090 Commerce Drive  
Prescott, AZ 86305

Steve Olea  
Utilities Division  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007-2996

Del Smith  
Utilities Division  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007-2996

Patrick Chan EES-WTR-6  
USEPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY  
CERTIFICATE OF APPROVAL TO CONSTRUCT  
DRINKING WATER WELL FACILITIES

Page 1 Of 2

ADEQ File No: 20090278	LTF No: 50749
System Name: Montezuma Rimrock Water	System Number: 13-071
Project Owner: Montezuma Rimrock Water Co. Llc	
Address: Po Box 10, Rimrock, AZ 86335	
Project Location: Cottonwood	County : Yavapai
Description: CONSTRUCT AND EQUIP THE TIEMANN WELL (ADWR# 55-213141) AT RIMROCK, AZ. THE WELL WATER EXCEEDS THE MCL FOR ARSENIC AND DUE TO THIS; THE WATER DOES'TØ PASS THE DRINKING WATER STANDARDS AND MUST BE TREATED PRIOR DISTRIBUTION.	

*Approval to construct the above-described facilities as represented in the approved documents on file with the Arizona Department of Environmental Quality is hereby given subject to provisions 1 through 6 continued on page 2 through 2*

1. This project must be constructed in accordance with all applicable laws, including Title 49, Chapter 2, Article 9 of the Arizona Revised Statutes and Title 18, Chapter 5, Article 5 of the Arizona Administrative Code.
2. Upon completion of construction, the engineer shall fill out the Engineer's Certificate of Completion and forward it to the Northern Regional Office located in Flagstaff. If all requirements have been completed, that unit will issue a Certificate of Approval of Construction. R18-5-507(B), Ariz. Admin.Code. At the project owner's request, the Department may conduct the final inspection required pursuant to R18-5-507(B); such a request must be made in writing in accordance with the time requirements of R18-5-507(C), Ariz. Admin. Code.
3. This certificate will be void if construction has not started within one year after the Certificate of Approval to Construct is issued, there is a halt in construction of more than one year, or construction is not completed within three years of the approval date. Upon receipt of a written request for an extension of time, the Department may grant an extension of time; an extension of time must be in writing. R18-5-505(E), Ariz. Admin. Code.
4. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department. R18-5-507(A), Ariz. Admin. Code.

Reviewed by : FKK

By: Janak K. Desai 10/28/2009  
Janak K. Desai, P.E. Unit Manager Date

Engineering Review Section  
Water Quality Division

cc: File No : 20090278  
Regional Office: Northern  
Owner: Montezuma Rimrock Water Co. Llc  
County Health Department: Yavapai  
Engineer: Env. Hydrosystems, Ltd.  
Planning and Zoning/Az Gov. Commission  
Engineering Review Database 2002

APPROVAL TO CONSTRUCT  
PROJECT NAME: TIEMANN WELL (ADWR #55-213141)  
ADEQ FILE No. 20090278  
PAGE 2 OF 2: PROVISIONS CONTINUED

5. Approval of Construct (AOC) will not be issued until acceptable Water Quality Data has been submitted.
6. The Arizona Department of Environmental Quality's review of this application was subject to the requirements of the licensing time frames ("LTF") statute under Arizona Revised Statutes ("A.R.S.") § 41-1072 through § 41-1079 and the LTF rules under Arizona Administrative Code ("A.A.C.") R18-1-501 through R18-1-525. This Notice is being issued within the overall time frame for your application.

ADEQ hereby approves your application for Approval to Construct Water Facilities under A.R.S. § 49-351. Your copy is enclosed.

This decision is an appealable agency action under A.R.S. § 41-1092. You have a right to request a hearing and file an appeal under A.R.S. § 41-1092.03(B). You must file a written Request for Hearing or Notice of Appeal within **30 days** of your receipt of this Notice. A Request for Hearing or Notice of Appeal is filed when it is received by ADEQ's Hearing Administrator as follows:

Judith Fought, Hearing Administrator  
Office of Administrative Counsel  
Arizona Department of Environmental Quality  
1110 W. Washington Street  
Phoenix, AZ 85007

The Request for Hearing or Notice of Appeal shall identify the party, the party's address, the agency and the action being appealed and shall contain a concise statement of the reasons for the appeal. Upon proper filing of a Request for Hearing or Notice of Appeal, ADEQ will serve a Notice of Hearing on all parties to the appeal. If you file a timely Request for Hearing or Notice of Appeal you have a right to request an informal settlement conference with ADEQ under A.R.S. § 41-1092.06. This request must be made in writing no later than **20 days** before a scheduled hearing and must be filed with the Hearing Administrator at the above address.

Please contact **Fauzia Karim Koly** at 602-771-4650 if you have questions regarding this Notice or the Certificate of Approval to Construct.

# YAVAPAI COUNTY

## Development Services

Prescott - (928) 771-3214 Fax: (928) 771-3432  
Cottonwood - (928) 639-8151 Fax: (928) 639-8153



## Flood Control District

Prescott - (928) 771-3197 Fax: (928) 771-3427  
Cottonwood - (928) 639-8151 Fax: (928) 639-8118

500 S. Marina Street, Prescott, AZ 86303 and 10 S. 6<sup>th</sup> Street, Cottonwood, AZ 86326

Addressing – Building Safety – Customer Service & Permitting – Environmental – Flood Control District – Land Use – Planning & Design Review

---

March 16, 2010

Ms. Patricia Olsen  
Montezuma Rimrock Water Company, LLC  
PO Box 10  
Rimrock, AZ 86335

Dear Ms. Olsen:

I am writing this letter to inform you of the outcome of the Board of Supervisors meeting regarding the following hearing application.

### BOARD HEARING AGENDA ITEM

Use Permit; APN: 405-25-517; HA# H9139

**Applicant:** Montezuma Rimrock Water Co., LLC

**Agent:** Patricia Olsen

**Project:** Well #4

**Request:** Consideration of a Use Permit to allow the placement of a well site to serve the Montezuma Rimrock Water Company system on site on an approximate legal non-conforming .22 acre (9,999 sq. ft.) lot in a R1L-10 (Residential; Single Family Limited; 10,000 minimum) zoning district. Located on Lot 500 in Lake Montezuma Estates Unit 2 on the west side of Tiemann Lane approximately 180 feet northwest of Bentley Drive in the Community of Beaver Creek. S36 T15N R5E G&SRB&M

**P&Z RECOMMENDATIONS:** On January 20, 2010, the Planning and Zoning Commission recommended deferral of the Use Permit, HA# H9139, for thirty (30) days or until their next regularly scheduled meeting in Cottonwood on February 17, 2010. The vote was unanimous.

On February 17, 2010, the Planning and Zoning Commission recommended approval of the Use Permit, HA# H9139, with the following stipulations:

1. *Use Permit to be approved on a permanent basis for a well site to service the Montezuma Rimrock Water Company and to be developed in conformance with the site plan dated April 29, 2009 and the Landscape Plan dated 2/10/10 and in accordance with all applicable codes, regulations and ordinance requirements. 15 gallon Italian Cypress Evergreen trees to be planted 10 feet on center along the 62 foot Northeast boundary of the property adjacent to the road.*
2. *Waiver of screening requirement to allow for chain link with overlapping slats.*

3. *In the event the owner of the subject property files a claim under ARS 12-1134, regarding this Use Permit, this Use Permit shall be null and void.*
4. *Any future expansion of the use or structures will require an amendment to this Use Permit.*
5. *Certificate of Compliance to be issued within one year of Board of Supervisors approval demonstrating that the use is operating in compliance with all applicable local, state and federal regulations.*

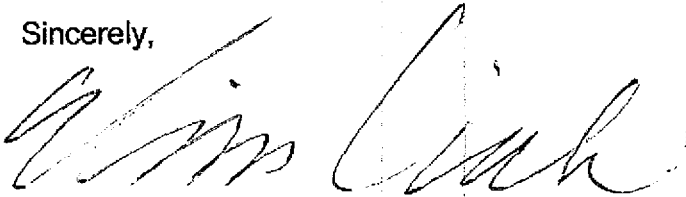
The vote was unanimous.

**BOS ACTION:** On March 15, 2010, the Board of Supervisors voted to approve the Use Permit, HA# H9139, as recommended by the Planning and Zoning Commission.

The vote was unanimous.

Please do not hesitate to call me at 928-422-5391, if you have any questions regarding this information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elise Link".

Elise Link  
Planner Manager  
Planning and Design Review  
YAVAPAI COUNTY DEVELOPMENT SERVICES



# YAVAPAI COUNTY

## Development Services

Prescott - (928) 771-3214 Fax: (928) 771-3432  
Cottonwood - (928) 639-8151 Fax: (928) 639-8153



## Flood Control District

Prescott - (928) 771-3197 Fax: (928) 771-3427  
Cottonwood - (928) 639-8151 Fax: (928) 639-8118

500 S. Marina Street, Prescott, AZ 86303 and 10 S. 6<sup>th</sup> Street, Cottonwood, AZ 86326

Addressing – Building Safety – Customer Service & Permitting – Environmental – Flood Control District – Land Use – Planning & Design Rev

February 16, 2010

Patricia Olsen  
President  
Montezuma Rimrock Water Co. LLC  
PO Box 10  
Rimrock, AZ 86335

Re: Water line from 405-25-517 to 405-25-740C.

Dear Ms Olsen,

The Flood Control District has reviewed the location of a proposed waterline to and from the above mentioned parcels and determined that it will not impact any mapped FEMA floodplain.

The line will however pass thru a District designated flood hazard area known as Beaver Creek School Wash flood fringe. Please note, this floodplain study has not been submitted to FEMA and therefore does not appear on the current Flood Insurance Rate Maps [FIRM]. The District used this study to regulate construction occurring within that flood hazard area.

Although the Flood Control District does not generally regulate utilities, the District would require that all grades be returned to same condition prior to the water line installation.

Please contact me if you have any questions.

A handwritten signature in black ink, appearing to read "J. Young", is written over a horizontal line.

Sincerely,  
Jim Young, Hydrologist  
Yavapai County Flood Control District  
928-639-8151

Print

Page 1 of 4

**From:** Mike VanDyke (MVanDyke@mrfd-fire.org)

**To:** Patricia Olsen

**Date:** Tue, February 9, 2010 8:45:25 AM

**Subject:** RE: Requesting statement

Hi Patricia,

The Gift to the community for infrastructure improvements is real and will be facilitated to its highest potential. The Montezuma Rimrock Water Company will also have the opportunity to receive benefit from it. This is a private venture involving the estate of Mr. Lodge. It does not directly involve the Fire Department and at no time will any of the funds ever cross through the Fire District. We are simply the medium making sure the improvements happen where the two water systems are the weakest. I hope this helps.

Sincerely,

Chief Van Dyke

---

# FENNEMORE CRAIG, P.C.

3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012-2913  
(602) 916-5000

Phillip F. Fargotstein  
Direct Phone: (602) 916-5453  
Direct Fax: (602) 916-5653  
pfargots@fcslaw.com

## Law Offices

Phoenix	(602) 916-5000
Tucson	(520) 879-6800
Nogales	(520) 281-3480
Las Vegas	(702) 692-8000
Denver	(303) 291-3200

March 24, 2010

Ms. Judith Fought  
Hearing Administrator  
Office of Administrative Counsel  
Mail Code 6135C  
Arizona Department of Environmental Quality  
1110 West Washington Street  
Phoenix, Arizona 85007-2935

**RE: Notice of Appeal and Request for Hearing, and Request for Informal Settlement Conference;  
Compliance Order, Docket No. DW-14-10;  
Montezuma Rimrock Water Company, LLC, P.O. Box 10, Rimrock, Yavapai County, AZ 86335;  
Public Water System Number 13-071**

Dear Ms. Fought:

We represent Montezuma Rimrock Water Company, LLC ("Appellant") in connection with the above referenced matter. This letter shall constitute a timely notice of appeal and request for hearing regarding ADEQ's Compliance Order (Docket No. DW-14-10) dated February 25, 2010, which was received by Appellant on March 5, 2010. In addition, this letter shall constitute a request for an informal settlement conference with ADEQ to discuss the Compliance Order and appeal.

Appellant is the operator of a small public water system with limited financial resources. Appellant has been making diligent efforts toward compliance with the Maximum Contaminant Level ("MCL") for arsenic, such as designing, obtaining required permits, and attempting to secure funding through the Water Infrastructure Finance Authority ("WIFA") of Arizona for the construction of an arsenic treatment system. Among other things, ADEQ's Compliance Order requires Appellant to complete construction of an approved treatment system within 45 days of the effective date of the Compliance Order and to provide alternative drinking water sources in the interim. Appellant cannot meet these demands in light of pending data requests by WIFA as

# FENNEMORE CRAIG, P.C.

March 24, 2010

Page 2

a condition for loan funding and the lack the financial resources to provide alternative sources of drinking water to its customers, such as bottled water.

Appellant notes that prior to ADEQ issuing the Compliance Order, ADEQ provided Appellant with a draft Consent Order. Appellant met with ADEQ staff and responded to the terms in the proposed Consent Order in general agreement with all terms, excepting the requirement to provide bottled water to its customers. Without further reply by ADEQ, a Compliance Order was issued. Appellant notes that ADEQ is authorized to grant small water systems, such as Appellants, and in circumstances such as these, a variance that will allow Appellant adequate time to come into compliance (i.e., see 40 C.F.R. Subpart J).

We look forward to hearing from ADEQ on the request for an informal settlement conference and the hearing date.

Sincerely,



Phillip F. Fargotstein

PFF/mlh

cc: Ms. Patricia Olsen, Manager  
Montezuma Rimrock Water Company, LLC  
Dawn Meidinger, Fennemore Craig



## Southwest Ground-water Consultants, Inc.

---

March 14, 2010

Ms Patricia Olsen, President  
Montezuma Rimrock Water Co. LLC  
P.O. Box 10  
Rimrock, AZ 86335

**SUBJECT: PROPOSED ENVIRONMENTAL INFORMATION DOCUMENT  
TIEMANN WELL, RIMROCK, ARIZONA**

Dear Ms. Olsen:

Southwest Ground-water Consultants, Inc. (SGC) is pleased to submit this proposal for preparation of an Environmental Information Document (EID) for the subject project. SGC understands that the Tiemann Well is a proposed water supply well for Montezuma Rimrock Water Co. LLC. The proposed location is in the southeast one-quarter of T15N, R5E of the Gila and Salt River Base and Meridian. SGC understands that Montezuma Rimrock Water Co. LLC is seeking funding from the Water Infrastructure Finance Authority of Arizona (WIFA). Submittal of an EID has been requested by WIFA.

### APPROACH

SGC proposes to prepare an EID in the format requested by WIFA. The proposed study is centered upon the reasonably available, existing data. The report will provide a description of the project, Alternatives to the project, discussion of the environmental consequences of the project, a summary of mitigation methods, description of public involvement and maps related to the study content.

The proposed study does not include the development of new data from testing of wells, field data collection, lab analysis or other data generation methods. The proposed study consists of the collection of existing information from agencies and previous studies, summarization of the information and presentation in the WIFA EID report format.

### SCOPE OF WORK

The EID Report will be prepared by conducting the following tasks.

#### **Task 1 - Information Collection.**

SGC will collect and review reasonably available information for the project vicinity from agency sources. This will include information regarding land use, floodplain, wetlands, historical resources, biological resources, water quality, air quality, noise abatement, scenic rivers, transportation and socio-economic issues. Information queries to agencies will include

departments of the Arizona government such as Environmental Quality, Economic Security, Game and Fish, Historical Preservation, Parks and Water Resources. Federal agency inquiries will include BIA, BLM, FEMA, Park Service, USACE, USDA, USEPA and USFS. Agency inquiries will also include tribal governments in the area.

## **Task 2 – Draft Report**

SGC will prepare a draft EID report. The report will summarize the information collected in Task 1. The report will describe the proposed project and the need for the project. Alternatives to the project will be proposed and evaluated. The environmental consequences of the project will be evaluated. The evaluation of consequences will address land use / important farmland / formally classified lands, floodplains, wetlands, historical resources, sensitive biological resources, water quality issues, air quality, noise abatement and control, wild and scenic rivers, transportation, socio-economic issues and miscellaneous environmental considerations. Potential adverse environmental impacts will be identified and summarized. Methods for mitigating will be described. The report will summarize the public participation in the project process, public comment and anticipated public benefits of the project.

## **COST ESTIMATE**

We propose to provide these services on a time and materials basis. Should we encounter conditions, which warrant additional work, such conditions will be reviewed with you prior to proceeding. SGC estimates that the study can be completed in approximately three weeks. The estimated costs for the proposed scope of work are shown below.

COST ESTIMATE	
Task 1 – Information Collection	\$ 3,300.00
Task 2 – Draft Report	<u>\$ 2,000.00</u>
TOTAL ESTIMATED COST	\$ 5,300.00

Our observations, interpretations, and recommendations forwarded in the progress of this work are based on conditions that exist at the time that the study is conducted. These interpretations are based upon SGC's evaluation of information collected from a number of sources. The firm is not responsible for the accuracy or completeness of data obtained from officials of regulatory agencies, nor for discrepancies between our conclusions and future activities at the site resulting in conditions, which were not present at the site during this study. It should also be recognized that SGC's work is done in accordance with our understanding of the regulatory standards, which existed at the time the work was performed.



Ms Patricia Olsen - Montezuma Rimrock Water Co. LLC  
Proposed EID - Tiemann Well  
March 14, 2010  
Page 3 of 3

SGC is a professional consulting firm and is incorporated according to the provisions set forth by the Arizona Corporation Commission. The firm is comprised of geologists and engineers, registered to practice in the State of Arizona as well as other States. SGC's Schedule of Fees, Charges, and Conditions are included as Attachment I.

If you are in agreement with the Scope of Work, the estimated time and materials fee of **\$5,300.00** and the conditions as stated in Attachment I, please sign Attachment I and return the original to indicate your understanding and concurrence with the conditions set forth herein.

SGC appreciates this opportunity to work with you on this project. If you have further questions or need to address any of these elements in more detail, please call the undersigned at the SGC Cottonwood office (928) 649-9993.

Sincerely,  
**Southwest Ground-water Consultants, Inc.**

*Chris R. Catalano*

Chris Catalano, R.G.  
Manager - Cottonwood Office

Attachment: Contract for professional consulting services



**ATTACHMENT I  
CONTRACT FOR PROFESSIONAL CONSULTING SERVICES**

between

**Southwest Ground-water Consultants, Inc.  
P.O. Box 4564  
Cottonwood, Arizona 86326  
an Arizona Corporation**

and

**Montezuma Rimrock Water Co. LLC  
P.O. Box 10  
Rimrock, AZ 86335**

**SCOPE OF SERVICES**

Preparation of an Environmental Information Document (EID) for the proposed Tiemann Well, as described in the attached SGC proposal dated March 14, 2010.

Scheduled Start Upon receiving written notice to proceed Scheduled Completion estimated 3 weeks

**AUTHORIZATION FOR PROFESSIONAL CONSULTING SERVICES**

APPROVED and ACCEPTED in accordance with the General Terms of Agreement on the following page by Client.

Client Name Montezuma Rimrock Water Co. LLC

By *Patricia D. Olsen*  
Client Authorized Representative (Signature)

Name Patricia D. Olsen  
(Print)

Title Manager

Date 3-22-10

By *Chris R. Catalano*  
Southwest Ground-water Consultants, Inc. (Signature)

Name Chris Catalano  
(Print)

Title Project Manager

Date \_\_\_\_\_

Distribution: Project Executive \_\_\_\_\_ Project Manager \_\_\_\_\_ Accounting \_\_\_\_\_ Other \_\_\_\_\_





**ATTACHMENT I (cont.)  
GENERAL TERMS OF AGREEMENT**

A. Professional Services				Support Services:	
Principals	\$115-145	Expert Testimony:		Technical Aide	\$40-55
Sr. Project Professional	\$95-115	Depositions/Hearings	\$1,200	CADD Operator	\$40-50
Project Manager, Project Professional	\$75-105	per day rate		Graphics Illustrator	\$40-50
Sr. Staff Professional	\$65-75	1/2 day minimum	\$600	Tech. Word Proc.	\$30-40
Staff Professional	\$55-65			Admin. Asst.	\$30-40
B. Direct Costs		Equipment Rental:			
Vehicles, 2-wheel drive	\$1.00/mile	pH Meter, Conductivity Meter,		\$25/day	
Vehicles, 4-wheel drive	\$1.50/mile	Exposimeter		\$50/day	
HNU/OVM	\$100/day	Downhole sounding devices			
		Other Misc. Field Expenses		Cost + 10%	
C. SGC will be reimbursed by the Client on the basis of one and ten hundredths (1.10) times direct cost, including subcontractors, for reimbursable expenses.					

**ARTICLE II. PAYMENTS DUE**

SGC shall present a monthly invoice for Professional Services. The Client shall pay the full amount thereof upon presentation, but not later than 30 days after presentation. If payment in full is not received within 45 calendar days of the invoice, SGC may suspend all work until payment is received in full for services rendered. If payment is not received within 60 days after invoice date, this contract may be terminated without notice by SGC. A late fee of 1.5% per month may be applied to unpaid accounts after a period of 60 days. Client will pay the sum of \$ 0.00 upon execution of this Agreement as a professional retainer.

**ARTICLE III. TERMINATION OF CONTRACT**

This Agreement may be terminated upon 7 days written notice by Client should the Project be permanently abandoned or by SGC for Client non-payment. In the event of termination, the compensation earned by SGC for all services performed through the period of notice shall be increased by 5 percent. Upon termination, all invoices presented by SGC for Services and for Reimbursable Expenses shall become immediately due and payable.

**ARTICLE IV. DISPOSAL OF SAMPLES**

Soil, rock, water, and/or other samples obtained from the project site are the property of the Client. SGC shall preserve such samples for no longer than forty-five (45) calendar days after the issuance of any document that includes the data obtained from them unless other arrangements are mutually agreed upon in writing. Should any of these samples be contaminated by hazardous substances or suspected hazardous substances, it is the Client's responsibility to select and arrange for lawful disposal procedures, that is, procedures which encompass removing the contaminated samples from SGC's custody and transporting them to a disposal site. Due to the risks to which SGC is exposed, the Client agrees to waive any claim against SGC and to defend, indemnify, and hold SGC harmless from any claim or liability for injury or loss arising from SGC's containing, labeling, transporting, testing, storing, or other handling of contaminated samples.

**ARTICLE V. AQUIFER CONTAMINATION**

Subsurface sampling may result in unavoidable contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated area, linking it to an aquifer, or other hydrous body not previously contaminated and capable of spreading hazardous materials off-site. Because nothing can be done to eliminate the risk of such an occurrence, and because subsurface sampling is a necessary aspect of the work which SGC will perform on the Client's benefit, the Client waives any claim against SGC and agrees to defend, indemnify, and hold SGC harmless from any claim or liability for injury or loss which may arise as a result of alleged cross-contamination caused by sampling. The Client further agrees to compensate SGC for any time spent or expenses incurred by SGC in defense of any such claim, in accordance with SGC's prevailing fee schedule and expense reimbursement policy.

**ARTICLE VI. CONFIDENTIALITY**

SGC agrees and shall require all of its employees, agents, representatives, assignees, subcontractors, or other person having an interest or duty in this Agreement to hold in strict confidence, and not to use or disclose, or permit the use or disclosure of, directly or indirectly, to any third party without OWNER'S written consent, all Confidential Information obtained from OWNER or OWNER'S agents, as generated in the performance of services rendered under this Agreement.

**ARTICLE VII. LIABILITY**

SGC agrees to hold harmless and indemnify the Client from and against liability arising out of SGC's negligent performance of the work. It is specifically understood and agreed that in no case shall SGC be required to pay an amount disproportional its culpability, or any share of any amount levied to recognize more than actual economic damages. Client agrees to limit SGC's liability arising from SGC's professional acts, errors or omissions, such that the total aggregate liability of SGC to all those named shall not exceed the total fee for the services rendered on this project.

**ARTICLE VIII. GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Arizona.

**ARTICLE IX. INTEGRATED DOCUMENT**

This Contract, including any exhibits, notes, embodies the entire agreement, terms and conditions between Owner and Contractor. No oral or written agreement between Owner or Contractor prior to the execution of this contract shall affect or modify any of the terms or obligations contained in any documents comprising this Contract Document.





**Environmental Hydrosystems Ltd**  
Civil, Environmental & Water Resources Engineering

901 N. San Francisco St  
Flagstaff, AZ 86001  
(928) 225-2218 (work)  
(928) 225-2222 (fax)

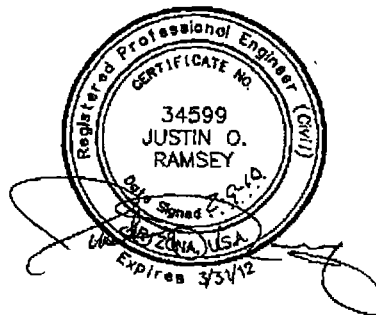
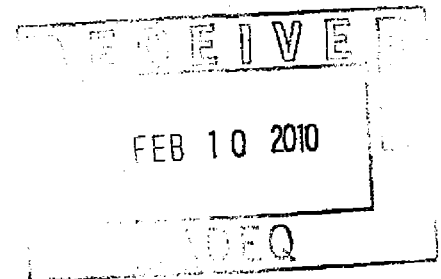
**Montezuma Rimrock Water Company  
Application for Approval to Construct  
Drinking Water Facilities**

**Design Report**

February 9, 2010

Project #0843B

Prepared For:  
Ms. Patricia Olson  
Montezuma Rimrock Water Company  
PO Box 10  
Rimrock, AZ 86335  
928 300-3291



U:\EHS\Projects\2008\0843B Montezuma Rimrock Water Line\Design\Design Report\Design Report.doc

CK#2003  
3-17-10

**From:** Sara Konrad (skonrad@azwifa.gov)

**To:** patsy@montezumawater.com;

**Date:** Fri, February 5, 2010 9:24:07 AM

**Cc:** jnavarrete@azwifa.gov;

**Subject:** RE: Environmental Information Document for Montezuma Rimrock Water Company.

WIFA received a citizen's complaint regarding some environmental concerns of the Arsenic Facility Installation Project. Due to these newly raised issues which were not addressed in the Environmental Review Checklist, WIFA has rescinded the initial Categorical Exemption and decided to require a higher level environmental review. Please feel free to contact me with any questions as you complete the Environmental Information Document.  
Sara

**Environmental Information Document for Montezuma Rimrock Water Company.**

From: Sara Konrad <[skkonrad@azwfa.gov](mailto:skkonrad@azwfa.gov)> View Contact  
 To: [phsy@montezumawater.com](mailto:phsy@montezumawater.com)  
 Cc: Judy Navarrete <[jnavarrete@azwfa.gov](mailto:jnavarrete@azwfa.gov)>  
 Environmental Information Document.doc (112KB)

Wed, February 3, 2010 10:19:10 AM

As you are aware, the Categorical Exemption previously issued for this project may not have been warranted as WIFA has recently received information that the project does not qualify under one or more of the categories in R18-15-107 (B).

WIFA must further verify conditions surrounding this project. To do so, you will need to prepare an Environmental Information Document (EID). I have attached the template for that document prescribing the required format. To expedite WIFA's review and development of an Environmental Assessment (EA) from the EID, it is vital that the EID thoroughly address each of the sections in the document.

Specifically for this project, the following issues have been raised and the Environmental Information Document must specifically address each with a formal letter from the appropriate federal or state agency:

1. The project is known or expected to directly or indirectly affect cultural resources: Montezuma's Well (National Park Service, U.S. Department of the Interior)
2. The project is known or expected to directly or indirectly affect habitats of endangered or threatened species: Southwest Willow Flycatcher in Wet Beaver Creek (U.S. Fish and Wildlife and/or AZ Game and Fish)
3. The project is known or expected to directly or indirectly affect the 100 year floodplain (FEMA).

If it so happens that these issues are not significant, then WIFA can, upon receipt of the EID, issue a Finding of No Significant Impact (FONSI). At that point, WIFA will publicly notice the FONSI for a period of 30 calendar days and receive and review any comments. If these issues are significant, then an Environmental Impact Statement will be required, and WIFA will contact you about proceeding with that process.

Please feel free to contact me if you have any questions.  
 Thank you,

**Sara Konrad**  
 Environmental Program Specialist  
 Arizona Water Infrastructure Finance Authority (WIFA)  
 1110 W. Washington St., Suite 290  
 Phoenix, AZ 85007  
 (602) 364-1319  
 fax (602) 364-1327

[www.azwfa.gov](http://www.azwfa.gov)